

BEST AVAILABLE COPY

REMARKS

This amendment is in response to the office action dated June 9, 2004. In the office action, claims 1-9 were allowed, claims 12-16 and 18-20 were objected to, and claims 10-11 and 17 were rejected. A detailed discussion of each item in the office action follows.

THE 102(b) REJECTION

On pages 2-3 of the office action, claims 10-11 and 17 were rejected under 35 U.S.C. 102(b), as being anticipated by Wu. Wu does not anticipate Applicants' invention for the following reasons:

1. Wu is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention.
 2. Wu does not disclose the purpose, means or mechanism that this invention discloses.
 3. Wu does not solve the problems that this invention solves.
 4. Wu does not disclose each and every element of this invention.
-
1. Wu is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention.

There is not anticipation by a prior patent not known or recognized as being capable of performing the function of the patented device, but rather the prior patent must itself do the teaching. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 U.S.P.Q. 385 (1984); Edstrom-Carson & Co. v. Onsrud Machine Works, Inc., 129 U.S.P.Q. 457.

Serial number: 10/604,068

Page 8 of 12

Wu is not capable of functioning the same as this invention because:

Wu does not monitor cross over pressure, and use the cross over pressure value to control air pressure within the cells of the support surface. Applicants are adding additional limitations to the claims to describe this feature of the invention in detail. Applicants' Attorney believes that based on the amendment, Wu does not anticipate the amended claims, because the cross over control element does not exist in Wu.

2. Wu does not disclose the purpose, means or mechanism that this invention discloses.

There is no anticipation where a reference does not disclose the purpose, means and mechanism for accomplishing the instant invention but rather is restricted to a limited and different means. Sperry Products, Inc. v. Aluminum Company of America, 120 U.S.P.Q. 362.

The goals or objects of Applicants' invention, without limitation, are to control cross over pressure. As stated in the application in paragraph 22:

"The actual success of alternating pressure surfaces depends on two important criteria. The first criterion is the ability to control the amount of air going into or venting from an air cell such that the air pressure can be very accurately determined and that the desired air pressure can be maintained. The second criterion is to very accurately determine the cross over pressures between hi-pressure and low pressure cells as they go through their cycles."

Wu cannot meet these objects to the extent that Applicants' invention can, because Wu has no such objective.

3. **Wu does not solve the problems that this invention solves.**

There is no anticipation if a prior patent does not solve the problem(s) which the subsequent patent successfully solves. Technical Development Corporation v. Servo Corporation of America, 125 U.S.P.Q. 133.

Wu does not solve the bottoming out problem which Applicants' invention solves. Applicants' invention prevents bottoming out. Wu is directed to controlling air pressure based on patient weight (Col. 1, lines 39-51).

4. **Wu does not disclose each and every element of this invention.**

There is no anticipation if the reference does not disclose each and every element of the claimed invention. SSIH Equipment S.A. v. United States International Trade Commission, 718 F.2d 365, 218 U.S.P.Q. 678 (1983).

Wu does not disclose a means to monitor and control cross over pressure.

Wu is directed to a support that can be adjusted to support individuals of varying weight. Applicants' invention is directed to a support that avoids bottoming out by monitoring and controlling cross over pressure. Independent claims 10 and 17 have been amended to more specifically describe this feature of the invention. Applicant's Attorney believes that based on the amendment, this basis of rejection has been overcome and respectfully asks the Examiner to reconsider the claims with a view toward allowance.

THE AMENDMENT TO CLAIM 19

The wording of claim 19 was amended for clarification purposes. In particular, the phrase "visually display" was amended to read --visual display of--.

Serial number: 10/604,068

Page 10 of 12

THE ALLOWABLE SUBJECT MATTER

On page 4 of the office action, the Examiner allowed claims 1-9.

In addition, on page 4 of the office action, the Examiner indicated that claims 12-16 and 18-20 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Regarding claim 12, it was amended to include all of the limitations of independent claim 1, from which it depends. Applicants' Attorney believes that based on the amendment, claim 12 and claims 13-16, which depend from claim 12, are now in condition for allowance.

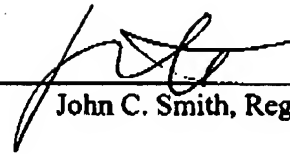
Regarding claim 18, it was amended to include all of the limitations of independent claim 17, from which it depends. Applicants' Attorney believes that based on the amendment, claim 18 and claims 19-20, which depend from claim 18, are now in condition for allowance.

CONCLUSION

Applicants' Attorney thanks the Examiner for the Examiner's help in prosecuting this invention. In response to the office action, Applicants' Attorney has amended claims 10, 12 and 17-19. Applicants' Attorney has been careful to avoid the introduction of new matter. In addition, a separate petition and fee for a two month extension of time is attached. Applicants' Attorney believes that all items in the office action dated June 9, 2004 have been addressed, and respectfully requests the Examiner to reconsider the claims, as amended, with a view towards allowance. Applicants' Attorney further invites the Examiner to contact Applicants' Attorney for a telephonic interview at the below listed number if the Examiner believes that prosecution of the application can be furthered by so doing.

Respectfully submitted,

By:



John C. Smith, Reg. No. 33,284

I hereby certify that this correspondence is being deposited via facsimile transmission and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on: October 26, 2004
Date of Deposit



John C. Smith, Reg. No. 33,284

October 26, 2004
Signature Date

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.